

Indiana Department of Education

Division of Exceptional Learners

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1863.02
COMPLAINT INVESTIGATOR: Steve Starbuck
DATE OF COMPLAINT: January 25 & 28, 2002
DATE OF REPORT: February 28, 2002
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: March 27, 2002

COMPLAINT ISSUES:

Whether the MSD of Lawrence Township violated:

511 IAC 7-27-4(c)(3) by failing to ensure the case conference committee (CCC), when reviewing the student's individualized education program (IEP), considered strategies, including positive behavioral interventions and supports, to address the student's behavior that impedes the student's learning or the learning of others.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically:

- a. failing to allow the student to use a "talking calculator" on math tests;
- b. failing to allow the student to tape record classroom lectures during the 2001-2002 school year; and
- c. failing to provide the student with textbooks on tape during the 2001-2002 school year.

511 IAC 7-27-2(c)(1) and (2) by failing to provide adequate written notice to the parent and the student of a CCC meeting scheduled for November 30, 2001.

511 IAC 7-27-4 by convening a CCC meeting on November 30, 2001, in the absence of the parent and student.

The complainant originally alleged that the school was non-compliant with 511 IAC 7-27-6(a)(3). However, the complainant withdrew this allegation during the course of the investigation.

The Complaint Investigation Report was originally due on February 22, 2002; however, due to the need to obtain additional information from the school, an extension was approved by the director of the Division of Exceptional Learners on February 21, 2002, extending the deadline until March 6, 2002.

FINDINGS OF FACT:

1. The student is fifteen years old, attends the ninth grade, and has been determined eligible for special education under the following disability categories: multiple disabilities, mild mental disability, and visual impairment. The student attends school part-time at a high school other than her home school and part-time at the Indiana School for the Blind.
2. The issue of whether the CCC considered strategies to address behaviors that impeded the student's learning was previously addressed in complaint #1859.02

3. The parent contends that the student has not been allowed to use a "talking calculator" on math tests during the current school year. The parent cited in the letter of complaint that the student was not allowed use of the "talking calculator" on a test given on September 5, 2001. The student's IEP dated May 17, 2001, specifies that the student will have use of a "talking calculator." In a signed written statement dated February 11, 2002, the teacher of record, math teacher, and the instructional assistant report that the student has had a talking calculator available for her use on all math tests except those testing her personal calculation skills. In a signed written statement dated February 21, 2002, the math teacher and instructional assistant report that the student has had use of a "talking calculator" at all appropriate times during each math class. The math teacher and instructional assistant report that there are times, such as on September 5, 2001, where it is necessary to assess the student's ability to calculate. On these occasions, the math teacher reports it would be inappropriate for the student to use her "talking calculator" as the objective is to measure the student's ability to calculate not her mastery of using the "talking calculator."
4. The parent contends that the student has not been allowed to tape record classroom lectures and has not been provided with textbooks on tape during the 2001-2002 school year. The parent was unable to identify any specific instances when the student was denied access to these accommodations. The student's IEP dated May 17, 2001, reflects that both classroom accommodations are appropriate for the student. The teacher of record, instructional assistant, and the student's three general education teachers report that the student has been permitted use of a tape recorder to tape classroom lectures and has had access to textbooks on tape. The teachers report that the student has two tape recorders. One is a four-track player for use with the student's textbooks, literature books on tape, and for recording. The other is a micro-cassette that was provided by the student's parents. The teachers report that the tape recorders have been used for the student for the following reasons: to take notes in science and English classes, to record study guides for tests and quizzes, to practice math facts, and to record homework assignments. The teachers report some of the student's classes are ninety minutes in length and to record the entire class period would not be beneficial to the student. Instead, the instructional assistant records key points made during the class period for the student to use for studying purposes at home or in study hall. The teachers report in their written statements that the student has had textbooks on tape for each of her academic classes during the 2001-2002 school year. The student's academic classes for the 2001-2002 school year are English, math, and science. The teacher's statements indicate that English and science texts are utilized to complete reading assignments and to study for tests and quizzes. The teachers report that math is the student's most challenging subject. Due to this, the student requires constant prompts from the instructional assistant to complete her math assignments. Because the text on tape simply reads the math problem to the student, the teachers have found that the math text on tape has not been an effective accommodation for the student.
5. The student attends school part-time at the Indiana School for the Blind. The student participates in lunch, home economics, choir, Nemeth Braille classes, and orientation and mobility training at this school. The teachers at the Indiana School for the Blind report in a signed written statement dated February 21, 2002, that apart from the Braille writer, they have not found the need to utilize a "talking calculator," tape recorder, or textbook on tape in any of the student's classes. The home economics teacher reports that the student's cooking class is a "hands on" type of class and that the need for a tape recorder or textbook on tape would not be appropriate for this type of class. The teacher states that all recipes utilized by the student are written in Braille.
6. The parent contends that a CCC meeting was convened on November 30, 2001, because the student's Reevaluation Summary indicates that a conference was held on this date. The Reevaluation Summary indicates that the parents and eleven school personnel participated in the

conference. The student is due for a 36-month reevaluation on March 12, 2002. The Reevaluation Summary was completed by the student's teacher of the visually impaired to prepare for the reevaluation. The Reevaluation Summary is typically used to summarize all of the data that has been collected to determine the student's need for a reevaluation. According to the director and the teacher of the visually impaired, a CCC meeting was never convened on November 30, 2001. The teacher of the visually impaired reports that in the space designated to reflect the date that a meeting was held to discuss the data collected, she typed in the date she completed the form, since the parent had informed school personnel that he did not feel that a CCC meeting was necessary to discuss preexisting data. E-mail messages written by school personnel and the parent reflect that the parent had indicated that he was of the opinion that a CCC meeting was not necessary to discuss preexisting evaluation data. The teacher of the visually impaired reports that she listed all individuals interviewed to complete the Reevaluation Summary on page one of the document as participants. The teacher of the visually impaired states she prepared the form as she normally would have if a CCC meeting had been convened to discuss the Reevaluation Summary. She acknowledges the manner in which the form was completed could be misleading. Other than the Reevaluation Summary, the parent does not have any other documentation available to document that a CCC meeting was convened on November 30, 2001.

CONCLUSIONS:

1. Finding of Fact #2 reflects that complaint issue 511 IAC 7-27-4(c)(3) was previously investigated by the Division in complaint #1859.02. Therefore, no additional conclusions on this issue are required.
2. Finding of Fact #3 establishes that school personnel have allowed the student to use a "talking calculator" on all math tests that have not been for the purpose of measuring the student's ability to calculate. Therefore, no violation of 511 IAC 7-27-7(a) is found.
3. Findings of Fact #4 and #5 reflect that the student has been allowed to tape record pertinent information from classroom lectures, and has been provided with textbooks on tape during the 2001-2002 school year. Therefore, no violation of 511 IAC 7-27-7(a) is found regarding these two accommodations.
4. Finding of Fact #6 indicates that a CCC meeting was not convened on November 30, 2001. Because no adequate written notice of a CCC meeting was required, and because the school did not convene a CCC meeting in the absence of the parents and the student, no violations of 511 IAC 7-27-2(c)(1) and (2) and 511 IAC 7-27-4 are found.

The Department of Education, Division of Exceptional Learners, requires no corrective action based on the Findings of Fact and Conclusions listed above.